

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

PETE ALAN THOMPSON, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> MINNESOTA DEPARTMENT OF CORRECTIONS, <p style="text-align: center;">Defendant.</p>	<p style="text-align: right;">Case No. 16-cv-2931 (DSD/HB)</p> <p style="text-align: center;">REPORT AND RECOMMENDATION</p>
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Plaintiff Pete Alan Thompson commenced this action by filing a complaint seeking relief under 42 U.S.C. § 1983 for deliberate indifference to his medical needs. Thompson did not pay a filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”) [Doc. No. 2]. In an Order dated October 12, 2016, this Court required Thompson to: (1) file an amended IFP application that included his prison trust account information and (2) calculate and pay an initial partial filing fee. (Order at 2 [Doc. No. 3].) Thompson was given thirty days from the date of the Order to comply, failing which, the Court warned, it would be recommended that the action be dismissed without prejudice for failure to prosecute. (Order at 3 (citing Fed. R. Civ. P. 41(b)).)

On November 7, 2016, Thompson filed an amended IFP application [Doc. No. 4] but did not pay an initial filing fee. In an Order dated November 30, 2016, the Court

calculated the initial partial filing fee for him (\$13.19) and gave him until December 21, 2016, to pay [Doc. No. 5]. The Court again warned Thompson that if he did not pay the initial partial filing fee, the Court would recommend that the action be dismissed without prejudice for failure to prosecute.

The December 21 deadline has now passed, and Thompson still has not paid the required partial filing fee or otherwise communicated with the Court. Accordingly, this Court now recommends in accordance with its prior orders that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: January 6, 2017

s/ Hildy Bowbeer
HILDY BOWBEER
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement for 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.